GOVERNMENT OF INDIA
HEALTH AND FAMILY WELFARE
LOK SABHA

UNSTARRED QUESTION NO:4634
ANSWERED ON:18.12.2002
DOHA DECLARATION ON LIFE SAVING AND AIDS MEDICINES
DR. KIRIT SOMAIYA

Will the Minister of HEALTH AND FAMILY WELFARE be pleased to state:

(a) whether the Ministry has taken up the follow up action on Doha Declaration by giving relaxation to life saving and AIDS medicines from patents TRIPS provision;

(b) whether after the implementation of TRIPS/WTO Act life saving drugs, HIV/AIDS medicines will become very costlier;

(c) whether the department has taken cognizance of starting product patent instead of process patent;

(d) whether various NGOs, patients, medical professionals, MPs have urged the Government to take up this issue with the concerned authorities;

(e) whether any coordinated efforts were made by Government in this regard; and

(f) if so, details of steps taken by Government on the matter?

Answer

MINISTER OF HEALTH AND FAMILY WELFARE (SHRI SHATRUGHAN SINHA)

(a) to (f): A statement is laid on the table of the Lok Sabha.

Statement referred to in reply to Lok Sabha Unstarred Question No.4634 for reply on 18-12-2002

The Doha Declaration on the TRIPS agreement on Public Health affirms that the TRIPS agreement can and should be interpreted in a manner so as to protect public health and promote access to medicines for all. The Declaration recognizes that affordability and availability of medicines is a universal right. The Ministers agreed that the TRIPS Agreement does not and should not prevent members from taking measures to protect public health.

The patent Act in India has certain safeguards such as compulsory licenses and parallel imports, which can be used to protect public health, in case such an exigency arises. The Doha Declaration clarifies that Governments have freedom to determine the grounds for grant of compulsory licenses. The Declaration also clarifies that each member has the right to determine what constitutes a national emergency or other circumstances of extreme emergency for issuing compulsory licenses on an expeditious basis.

The Declaration would allow a more flexible interpretation of the provisions of the TRIPS Agreement and allow the Government of India to use flexibilities available within the Agreement relating to compulsory licensing and parallel import in order to protect public health. The Indian pharmaceutical industry could also benefit in catering to the demands of such markets outside the country where the governments undertake measures like compulsory licensing and parallel import.

At present, India is following the process patent system for pharmaceuticals, and that question of a more liberal use of safeguards will be more relevant under the product patent system. There also appears to be no provision in the Doha Declaration for exempting any category of medicines from the provisions of TRIPS.